

BellSouth's anticompetitive acts also justify substantial forfeitures. In addition to its admitted violation of the Commission's ONA policies, BellSouth has violated the basic terms of its own CEI plan by failing to make call forwarding features available to its competitors. Comments of ANPA at 10, Comments of Cox at 36-37.

BellSouth's new CCL pricing scheme also raises issues as to whether it is attempting to deprive enhanced service providers of existing access arrangements, contrary to Commission policy. See BellSouth CEI Order at 7297, n.143. If so, a forfeiture is justified for that additional violation.

The Commission should investigate BellSouth's pricing and marketing policies to determine the appropriate sanctions for BellSouth's apparent cross-subsidization of MemoryCall. As detailed in Cox's comments, MemoryCall's pricing and BellSouth's refusal to provide cost data to regulators make it difficult to draw any inference but that MemoryCall is being cross-subsidized from ratepayer funds.^{2/} Comments of Cox at 23-24. A full investigation, followed by the imposition of appropriate sanctions, is the only way to assure that ratepayers are protected from paying unreasonable rates as a result of cross-subsidization.

^{2/} Cox notes that BellSouth, more than two months after the issuance of the Order, has yet to produce the cost data requested by the Georgia PSC.

Finally, the real world monopoly abuses revealed by this proceeding should compel the Commission to strengthen its regulatory protections of the enhanced services industry. If left unchecked, BellSouth and the other regional companies will cripple what otherwise would be fair and competitive markets.^{10/}

IV. CONCLUSION


The facts in the records of three distinct proceedings paint a compelling portrait of continuing monopoly abuse by BellSouth. The Georgia PSC compiled a voluminous record of how BellSouth exploited its monopoly to create technical, marketing and pricing advantages for MemoryCall. The MFJ Court found the same pattern, not just in Georgia but in Florida and elsewhere. The record in this proceeding shows not only that BellSouth abused its monopoly, but that the abuses continue and extend far beyond MemoryCall.

BellSouth's exploitation of its monopoly violates Commission rules and policies and BellSouth's own CEI plan; it also does fundamental violence to the basic principles of free and fair competition that undergird the Commission's enhanced services policies. Enforcement of those Commission

^{10/} As with its comments in this proceeding, Cox is submitting a copy of these reply comments to the docket in the Computer III remand proceeding.

policies is the only way to assure free and fair competition
and to create a vibrant, innovative enhanced services
market.

Respectfully submitted,
COX ENTERPRISES, INC.

By: 
Werner K. Hartenberger
Peter C. Canfield
J.G. Harrington

Its Attorneys

August 6, 1991

DOW, LOHNES & ALBERTSON
1255 23rd Street, N.W.
Suite 500
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EXHIBIT 1

BELLSOUTH CCL TARIFF

Marty G. Dickens
Assistant Vice President

RECEIVED
08 JUL 30 1991
Ref 7-91-18
PCC

Southern Bell

397-125 Perimeter Center - West
Atlanta, Georgia 30346
404 391-2450

July 19, 1991

RECEIVED

The Honorable
Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, Georgia 30334

JUL 19 1991

Executive Secretary
Ga. Public Service Commission

Gentlemen:

Attached for filing with the Commission is the following
page for the Access Service Tariff:

Access Service Tariff

Section E3 - Seventh Revised Page 6

This tariff filing is being made to restructure the
recovery of revenue associated with the Carrier Common Line
Rate Element.

Please acknowledge receipt of this tariff by signing and
returning the second copy of this letter.

Yours very truly,


Assistant Vice President

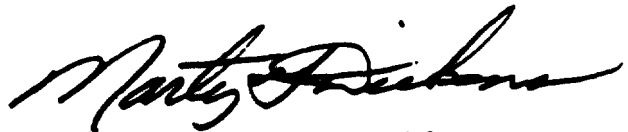
Attachment

Copy to: Ms. Nancy G. Gibson
Consumers' Utility Counsel of Georgia
32 Peachtree Street
Suite 225
Atlanta, Georgia 30303

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the Georgia Access Service Tariff, Section E3, Seventh Revised Page 6, upon the Consumers' Utility Counsel of Georgia, Ms. Nancy G. Gibson, Suite 225, 32 Peachtree Street, Atlanta, Georgia 30303.

Dated at Atlanta, Georgia this 19th day of July, 1991.

A handwritten signature in cursive script, appearing to read "Nancy Gibson", written in black ink.

Assistant Vice President
Regulatory Matters

SYNOPSIS

This tariff filing, through the restructure of Carrier Common Line (CCL) revenue recovery, will enable the Company to better price switched access services based upon the value of those services. In particular, customers use of Feature Group A (FGA) and Feature Group B (FGB) access services for the provision of specialized communications functions, increases the value of these services beyond that currently reflected by the existing rate structure.

The value of FGB access service is greater to certain market segments due to its unique market characteristics. This added value is in the form of a LATA-wide nationwide 7 digit (950-XXXX dialing) telephone number that appears to customers to be a local number. Traditionally, Feature Group D (FGD) has been considered to be a superior form of access (and continues to be for basic MTS access) and was therefore priced higher than FGB. However, the relative value of FGB, with its nationwide 7 digit number capability, has increased due to customers utilization of the service for the provision of specialized enhanced services. This increase in value is recognized by raising FGB CCL charges for originating minutes of use (MOU) from \$0.0090/MOU to \$0.0553/MOU. This tariff filing also proposes to lower the Terminating CCL rate from \$0.0280/MOU to \$0.0263.

The total revenues of the Company will not change as a result of this tariff filing (revenue neutral).

E3. CARRIER COMMON LINE ACCESS

E3.7 Rate Regulations (Cont'd)

- F. When the IC reports interstate and intrastate use of in service Switched Access Service, the Carrier Common Line Access access minutes will be adjusted as follows. The Carrier Common Line Access access minutes developed by the billing entity will be multiplied by the intrastate percentage as set forth in E2.3.14. The result will be used to determine the Carrier Common Line Charges as set forth in G. following.
- G. After the adjustments as set forth in F. preceding have been applied, when necessary, to the Carrier Common Line Access access minutes, the charges for the involved IC account will be determined as follows:
1. The access minutes will be multiplied by the Carrier Common Line charges as set forth in E3.8 following to determine the charges.

E3.8 Rates and Charges

- A. The rates for Carrier Common Line Access are:

Carrier Common Line Charge

(1) Originating Access Minute¹

- (a) FGA (for use with customer's FXONAL service), FGC, FGD, each
- (b) FGA (for use with customer's MTS/WATS type service), FGB, each

Rate USOC

\$.0090 NA (C)

.0553 NA (C)

(2) Terminating Access Minute

- (a) Each

.0263 NA (N)

Note 1: Per Docket No. 3883-U, the Originating Carrier Common Line (OCCL) rate will be adjusted annually on January 1 of each year according to the following procedure: (1) For January 1, 1991 the capped 1989 revenue will be grown by the percent growth in residential access lines or by 3.5 percent, whichever is less. For subsequent years the capped revenue level will be developed by growing the previous year's capped OCCL revenue level by the percent growth in residential access lines or by 3.5 percent, whichever is less; (2) The capped revenue amount determined in step 1 will be divided by the forecasted OCCL minutes of use to determine the rate level for that year; (3) A true-up adjustment based on actual minutes of use and percent growth in residential access lines for the previous calendar year will be made during March of the current year based on March 1 data. All adjustments, as a result of either over or underrecovery of the capped revenue amount, will not be assessed any penalty charges (e.g., interest penalty and late payment charges).

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of August, 1991, copies of the foregoing "Reply Comments of Cox Enterprises, Inc." were served by first class, United States mail, postage prepaid, upon the following parties, except where indicated:

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Bonnie V. Biely de Villarroel

*Via hand delivery.

Audit Report

**SOUTHERN BELL TELEPHONE &
TELEGRAPH COMPANY**

**COST ALLOCATIONS
(REGULATED/NONREGULATED)**

AND

AFFILIATED TRANSACTIONS

SEPTEMBER 1994

**Utilities Division
Georgia Public Service Commission
and
Snively, King & Associates, Inc.**

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MAC BARBER
BOB DURDEN
ROBERT C. (BOBBY) PAFFORD
ROBERT A. (BOBBY) ROWAN



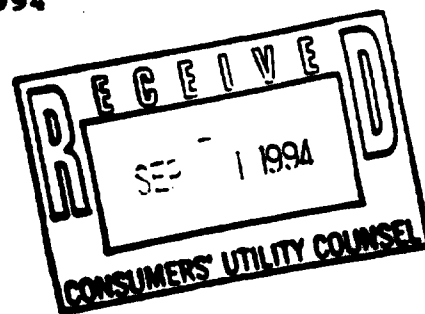
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Georgia Public Service Commission

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September 1, 1994

Robert B. Baker, Chairman
Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, GA 30334-5701



Honorable Chairman and Commissioners:

In July 1992, the Commission directed the Staff to conduct an audit of Southern Bell Telephone and Telegraph Company's cost allocations and affiliated transactions. The Commission wanted a review of the relationship between the Company's regulated telephone operations and both its nonregulated activities and the nonregulated operations of its affiliates in order to learn whether Southern Bell's regulated customers are protected from cross-subsidy.

The audit identified a number of specific cross-subsidies and cost shifts and makes recommendations relating thereto. In general the auditors conclude that the best protection for regulated customers and the Company's competitors is continued audits as long as the Commission has regulatory oversight of the Company's costs. This leads to a second general finding. The elimination of the cross-subsidies and cost shifts identified in this report appear to have taken on considerable urgency in light of Southern Bell's

efforts to advance legislative and regulatory plans that would declare all existing rates just and reasonable and apparently eliminate regulatory oversight of costs.

The draft findings were sent to the Company for its review and comment. The written responses are attached. Southern Bell is disappointed with the individual audit findings for several reasons and apparently disagrees with every finding and recommendation. Southern Bell's disappointment also stems in part from its opinion that the outside consultants were not objective. The Company ultimately concludes that "no further action is required by the Commission."

We appreciate the courtesy and cooperation of Southern Bell's staff. The auditors in charge of this project were Don Craig of the Commission Staff and Michael J. Majoros, Jr. of the economic consulting firm of Snavelly, King & Associates, Inc. who were assisted by Mr. James W. Currin and Mr. Richard B. Lee also of Snavelly, King & Associates, Inc.

B.B. Knowles

B.B. Knowles
Director of Utilities

Audit Report on
Southern Bell Telephone and Telegraph Company
Cost Allocations and Affiliate Transactions

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6.	The Commission should be cognizant that the Company derives benefits through deferred tax activity in rate case years and non-rate case years.	III - 31

7. Georgia PSC auditors should be provided access to all income tax returns and related workpapers. III - 34

MemoryCall²

8. The Company should be reprimanded for adding MemoryCall² losses to the Surveillance Report without notifying the Commission and the Company's failure to file tariffs and supporting cost of service studies. III - 39
9. Southern Bell's construction program should be regularly audited. III - 44
10. Right-To-Use fees should be directly assigned whenever possible. III - 48

Purchasing, Warehousing and Transfers

11. The Commission should investigate the implications of a 1990 switch price restructure and increase its audit scrutiny of BellSouth to ensure that basic business and residential ratepayers are protected against cross-subsidies. III - 52
12. The inclusion of BellSouth Services' net income and equity in the Surveillance Report provided a subsidy for it's nonregulated CPE products and masked the over-earnings on sales to the regulated operations. . . . III - 61
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Cost Allocation

14. Recent legislative and regulatory initiatives increase the urgency of eliminating subsidies found in this audit. III - 72
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16. The auditors recommend the use of positive time reporting for BellSouth's and Southern Bell's legal departments. III - 82

Affiliate Transactions

17. Chaining calculations relating to affiliated transactions should recognize operations, such as BAPCO, which are treated as regulated at the intrastate level. III - 92
18. Sunlink's Corporate cost allocation process provides an opportunity for the regulated telephone operations to subsidize BellSouth's nonregulated commercial ventures. If Southern Bell is unwilling to calculate the portion of Sunlink's lease price increases which flow into regulation, the total amount of the leases should be disallowed. III - 96
19. Commercial space which is leased from a nonregulated affiliate for regulated operations should be evaluated to determine if the lease space is actually being utilized. III - 101
20. Commission should perform regular future audits focussed on real estate and lease transactions which involve affiliates in any way. An intrastate adjustment of \$321,609 should be made to the Surveillance Report to compensate regulated customers for excessive Chastain Center lease expenses. . III - 104
21. The interest received by Southern Bell from advances to affiliates should be offset against book interest in the interest synchronization adjustment. III - 112
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23. Accounting and information management costs should be directly assigned whenever possible. III - 119
24. BSC international calls should be directly assigned to nonregulated in most cases. . . III - 123

25. A portion of BSC unattributable costs should be retained by BSC. III - 126
26. The transactions between BAPCO and SGI should be specifically covered by Rule 32.27(d) for the purposes of the Georgia Surveillance Report. Substantial third party sales should be interpreted to mean that 75 percent or more of the sales are to non-affiliated companies. III - 129
27. BellSouth Enterprise's retention of expenses associated with its foreign subsidiaries should be referred to the Internal Revenue Service International Examination Branch and the Georgia Department of Revenue Income Tax Division for further investigation with regard to its tax deductions. III - 133

IV. APPENDICES

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V. COMPANY RESPONSE

I. SUMMARY

The primary objective of this audit was to review the relationship between the Company's regulated telephone operations and both its nonregulated activities and the nonregulated operations of its affiliates in order to learn whether Southern Bell's regulated customers are protected from cross-subsidy. Regardless of whether a practice was sanctioned by any particular rule, standard, or procedure, if the practice resulted in a cross-subsidy the auditors were obligated to identify it as such. For example, the Company achieves a significant cross-subsidy in the income tax area which is not precluded by any particular rule.

This audit required the recognition of numerous regulatory and policy issues in addition to accounting matters. It required analyses of the applicable regulatory policies developed in Commission Dockets 3905-U, 3987-U and 4000-U and FCC Docket 86-111 that deal with cost allocation standards, affiliate transactions and related accounting. The audit also required analyses of the purposes and effects of Southern Bell's actions, plus the reasoning that was used to apply the underlying policies in light of those purposes and effects. From the auditors' perspective, these requirements and reasoning were applied within constraints imposed by proprietary agreements and the inability to examine certain material.

As summarized below the auditors identified a number of specific cross-subsidies and cost shifts. The elimination of these

cross-subsidies and cost shifts appears to have taken on considerable urgency in light of Southern Bell's efforts to advance legislative and regulatory plans that would declare all existing rates just and reasonable and apparently eliminate any regulatory oversight of costs.

This report is divided into five parts. This Summary is Part I; Part II relates to the history of Commission activity in the area of cost allocations and affiliate transactions. Part III contains detailed discussion of the auditors' twenty-seven findings categorized into five issue areas -- tax allocation, MemoryCall[®], purchasing, cost allocations and affiliate transactions.

Tax Allocation

Finding Nos. 1 through 7 and 27 deal with the Company's allocation of tax benefits. The auditors found that many of these benefits result in cross-subsidies from regulated operations to nonregulated services and from Southern Bell to BellSouth affiliates. The auditors offer recommendations that will provide a fair and equitable sharing of these tax benefits.

MemoryCall[®]

Finding Nos. 8 through 10 deal with the Company's provision of MemoryCall[®] service. During the course of the audit it became clear that the Company's construction program should be regularly audited for proper assignment between regulated and nonregulated

activities and that Right-to-Use fees should be directly assigned whenever possible.

In June, 1991 the Company began to add MemoryCall² costs to regulated operations in the Georgia Surveillance Report. It did not identify these costs in the Surveillance Report and it provided no official notification, tariffs or cost support. The auditors recommend the Company be reprimanded for these failures.

Purchasing, Warehousing and Transfers

Finding Nos. 11 through 13 address purchasing, warehousing and transfers. Two primary issues emerged: (1) cost shifts from competitive to noncompetitive services and (2) a cross-subsidy of nonregulated customer premises equipment ("CPE") by regulated operations. The cost shifts from competitive to noncompetitive services are related to a 1990 switch price restructure negotiated between Southern Bell and AT&T which appears to have inflated noncompetitive service costs and reduced competitive service costs. The auditors recommend that the Commission investigate the implications and effects of this price restructure.

The cross-subsidy of nonregulated CPE by regulated operations resulted from the inclusion of unprofitable CPE in BellSouth Services's ("BSS") operations and the consequent inclusion of those results in regulated operations in the Company's Surveillance Report. The auditors recommend a rate base deduction. The Company should also be reprimanded for its failure to inform the Commission

that the BSS add-back included unprofitable, obsolete, nonregulated business CPE.

Cost Allocation

Finding Nos. 15 and 16 deal with cost allocations between regulated and nonregulated services. The auditors found the Company generally to be in compliance with Part 64 of the FCC rules. However, assuming continued regulatory oversight of the Company's costs, audit scrutiny of these cost allocations will become more critical as the Company's nonregulated operations increase. The auditors recommend the use of positive time reporting for BellSouth's and Southern Bell's Legal Departments to ensure that each individual is held more directly accountable for how his or her time is charged.

Affiliate Transactions

Finding Nos. 17 to 27 identify several issues and cross-subsidies in connection with affiliate transaction rules and cost allocation standards. The auditors recommend increased scrutiny of affiliated lease transactions (Finding Nos. 17 to 20). The auditors also recommend an adjustment to the Surveillance Report interest synchronization adjustment to reflect interest received from advances to affiliates (Finding No. 21). Finding No. 22 recommends that the Commission increase its audit scrutiny of the Company's CPE-related transactions, and is particularly relevant in light of Finding Nos. 3 and 12. Finding Nos. 23 to 26 recommend

specific cost allocation procedures. Of particular significance is the recommendation to define "substantial third party sales" as meaning that 75 percent or more of the sales are to non-affiliated companies.

Finding No. 27 deals with affiliated transactions between nonregulated domestic and foreign affiliates. It recommends referral of this finding to the IRS International Examination Branch and the Georgia Department of Revenue Income Tax Division for further investigation.

Finally, Finding No. 14 explains why Southern Bell's recent legislative and regulatory initiatives increase the urgency of eliminating subsidies found in this audit.